

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1777 OF 2022

Maruti Dhula Waghmode And Anr.

...Applicants

vs.

The State of Maharashtra

...Respondent

....

Mr. Hanmant G. Wakshe, for the Applicants.

Mr. A.A. Palkar, APP, for Respondent/State.

....

CORAM : ANUJA PRABHUDESSAI, J.

DATE : 21 NOVEMBER 2022

P.C.:

This is an application under Section 439 of Cr.P.C. filed by the aforesaid Applicants who are facing trial in Sessions Case No.328 of 2021 pending before Sessions Court Vaduj for offences under Section 302 read with Section 34 of Indian Penal Code.

2. Heard Mr. Wakshe, learned Counsel for the Applicants and Mr. Palkar, learned APP for the State. I have perused the records and considered the submissions advanced by learned Counsel for respective parties.

3. The crime against the Applicants was registered pursuant to

the First Information Report dated 9 November 2021, lodged by Sadashiv Anna Waghmode, son of the deceased Anna Waghmode. The deceased is the brother of Applicant No.1 Maruti. The relations between the Applicants and the deceased were strained over property dispute. It is alleged that on 8 November 2021, at about 10.00 a.m., the deceased Anna Waghmode had left the house to water the jawar crop. At about 11.45 a.m., the complainant received a phone call from Jeevan Waghmode that Anna Waghmode was being assaulted in the field. When the complainant and his daughter went to the field, they saw Anna Waghmode lying in the field with bleeding injuries. He was conscious and was asking for water. The complainant brought water from the house of Sachin Katkar. The deceased informed him that both the Applicants had come to the field and sought permission to water the crop. When they were told to first partition the property, both the Applicants got annoyed and assaulted him with stones and sticks. He stated that the Applicant Aaba gave a blow of axe on the rear part of his head. The deceased succumbed to the injuries on the same date.

4. The post mortem report reveals the deceased had suffered 14 injuries, most of which were over occipital region, parieto-occipital region and temporal region. There was depressed fracture over occipital bone. There were fractures of skull base, skull vault and brain tissue was damaged over occipital region. The doctor opined that the death was due to head injury.

5. The statement of Sachin Katkar as well as the statement of Vitthal Misal also prima facie indicate that the deceased had told the complainant in their presence that he was assaulted by both these Applicants. The material on record prima facie shows involvement of the Applicants in the crime in question. The nature and gravity of the offence does not justify grant of bail.

6. The application is dismissed.

(ANUJA PRABHUDESSAI, J.)